that presumptions only affect the burden of going forward with the evidence, or operate to make a *prima facie* case, but have no probative value in themselves apart from the substantive facts which give rise to them. This view is approved by authorities. THAYER, PRELIM. TREAT. EVID., 314, 575; 4 WIGMORE, EVID., Sec. 2491. It is also the view more generally accepted by the courts. See 13 MICH. L. REV. 504; 8 COL. L. REV. 127. It is said that "presumptions are rules of convenience based upon experience or public policy, and established to facilitate the ascertainment of truth in the trial of causes." *Ward* v. *Teller Reservoir & Irrigation Co.*, 60 Colo. 47. See also *Helbig* v. *Citizens Insurance Co.*, 234 Ill. 251; *Nicholson* v. *Neary*, 77 Wash. 294. "A presumption of fact will not be permitted to contradict or overcome facts actually proved." *Western Advertising Co.* v. *Starr Publishing Co.*, 146 Mo. App. 90. It was held error to find for the plaintiff upon no other proof than the fact that his cow was found dead near the tracks, which in the lower court was deemed to prove that it was killed by a train; on appeal it was decided that this conclusion could only be reached by erroneously giving probative effect to a presumption. *Union Pacific R. Co.* v. *Bullis*, 6 Colo. App. 64. Many courts appear not to discriminate between the two views as to the probative effect of presumptions, but assume that the distinction is merely academic. That it is important, however, is explained in *Hall* v. *State*, 78 Fla. 420, where it was held that the lower court properly refused to instruct that the presumption of innocence should go to the jury as evidence, because it incorrectly assumed that there were stages in the process of conviction. 1. Overcoming the presumption of innocence. 2. Proving the defendant guilty. The fallacy of this is seen in regarding the proof as not sufficient when the presumption of innocence is overcome, because the defendant is then in effect still presumed to be innocent. The same reasoning is applicable to any presumption of fact which is claimed to have probative effect, and shows the error in the principal case which regards the two opposing presumptions as evidence.

GIFTS—ASSIGNMENT OF SAVINGS BANK DEPOSIT.—Deceased, in the presence of his wife, delivered a written order to the bank, transferring his savings account standing in his name to a joint account between himself and wife, subject to withdrawal by check, in the event of death of either the balance to belong to the survivor. The pass book was in the bank's possession. *Held*, not a valid gift, since the depositor did not in his lifetime release control and dominion over the account. *Pearre* v. *Grossnickle* (Md., 1921), 115 Atl. 49.

To constitute a valid gift of a chose in action, since there can be no actual delivery of the subject matter, the donor must surrender to the donee his voucher of right or title—that which is essential to his dominion over the subject of the gift. *Cook* v. *Lum*, 55 N. J. L. 373. Often in the case of savings bank accounts presentation of the bank book is essential in order for one to draw on the account. Where that is the case, a delivery of the savings bank book with intent to give the donee the deposits represented by the book constitutes a completed gift. *Hill* v. *Stevenson*, 63 Me. 364.

But if, after delivering to the donee a written assignment of the fund making the donor and donee joint owners, the donor retains the pass book, there is no valid gift. *Whalen* v. *Milholland,* 89 Md. 199. The real basis for this decision is not that advanced in one part of the opinion—being a joint owner, the donor could defeat the gift himself by withdrawing the entire fund—for the donee, as joint owner, would have the same power. The true reason is that given later in the opinion—that, since the donor retained the pass book which was necessary for the withdrawal of the money, he did not surrender dominion over the fund. The principal case relies upon this decision, but there is an important difference between the facts in the two cases. In the principal case, the bank in which the money was deposited held the pass book. Could it be said then that possession of the bank book was necessary to dominion over the fund? Where the debtor bank holds the book and the book therefore has nothing to do with dominion over the account, the case is analogous to one where a book has never been issued or where it is lost. In such a case, a valid gift may be made by delivery of a written assignment. *Candee* v. *Conn. Sav. Bank,* 71 Atl. 551. The fact that the donor was still a joint owner and could defeat the gift by withdrawing by check the whole amount should not invalidate the gift, since he had made as complete a surrender of dominion as was possible and still keep it a joint account. When as complete a delivery is made as the nature of the subject matter will permit, it has been held that the gift is valid. *Dinslage* v. *Stratman,* 180 N. W. 81; 19 MICH. L. REV. 656.

HIGHWAYS—LIABILITY OF ABUTTING LAND OWNER FOR DEFECTS IN TREES STANDING WITHIN LIMITS OF PUBLIC HIGHWAY.—A tree standing on defendant's land, but within the limits of a public highway, fell across the traveled part of the highway, severely injuring the plaintiff, who was driving past in an automobile. The tree was alive when it fell, but there was a serious defect in it which had existed for several years. *Held,* there was no legal duty on the defendant, the servient fee owner, to safeguard the traveler against dangers from defects in trees standing within the limits of the county road. *Zacharias* v. *Nesbitt* (Minn., 1921), 185 N. W. 295.

In the absence of any legislative enactment upon the subject, an abutting land owner is not liable to travelers for injuries received by them because of a defect in the street in front of his premises, unless such defect was caused by his own act or fault. ELLIOTT, ROADS AND STREETS, 539. The principal case held that decayed limbs of trees, or trees likely to fall, are defects of highways within the above principle. However, in *Weller* v. *McCormick,* 52 N. J. L. 470, it was held that where an abutting land owner planted a tree on the sidewalk in front of his premises, he was bound to use reasonable care to prevent the tree from becoming dangerous to travelers, and one injured by his failure to do so would be entitled to recover compensation. The court in the principal case declined to say whether a different rule should be applied to trees found growing on a rural highway when it was laid out and trees planted by the abutting owner in a village or city street. In *Hewison* v. *City of New Haven,* 37 Conn. 475, it was asserted that at